



Queensland

Superannuation (State Public Sector) Amendment Act 2009

Act No. 11 of 2009



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Superannuation (State Public Sector) Amendment Act 2009

Act No. 11 of 2009

**An Act to amend the Superannuation (State Public Sector) Act 1990 for
particular purposes**

[Assented to 28 May 2009]

The Parliament of Queensland enacts—

1 Short title

This Act may be cited as the *Superannuation (State Public Sector) Amendment Act 2009*.

2 Act amended

This Act amends the *Superannuation (State Public Sector) Act 1990*.

3 Amendment of s 2 (Interpretation)

Section 2(1)—

insert—

‘*QSL*, for part 4B, see section 31C.

relevant employee, for part 4B, see section 31C.

transfer day, for part 4B, see section 31C.’.

4 Amendment of s 13 (Membership of scheme)

Section 13(9) and (9A)—

omit, insert—

‘(9) The current employer of a member of the scheme may make contributions to the scheme for the member whether or not the current employer is a unit of the State public sector.’.

5 Amendment of s 13A (Continuation of eligibility for membership after transfer of employment)

(1) Section 13A(1)—

insert—

‘(d) for a new employer who has given notice under paragraph (c)(ii)—the Minister approves the new employer for this section.’.

(2) Section 13A(2)—

omit, insert—

‘(2) This Act applies in relation to the employment of the person as if the new employer were a unit of the State public sector.’.

6 Insertion of new s 13AA

After section 13A—

insert—

‘13AA Continuation of eligibility for membership after employer ceases to be unit of State public sector

‘(1) This section applies if—

- (a) a person’s employer ceases to be a unit of the State public sector (the *relevant event*) and the person continues to be an employee of the employer; and
- (b) immediately before the relevant event, the person is a member of the scheme; and
- (c) the relevant event happens under an Act that provides that, on the happening of the relevant event, the person keeps all the person’s existing and accruing rights relating to superannuation.

‘(2) This Act continues to apply in relation to the employment of the person as if the employer were a unit of the State public sector.’.

7 Insertion of new pt 4B

After part 4A—

insert—

‘Part 4B Transfer of employees to QSL

‘31C Definitions for pt 4B

‘In this part—

QSL means QSuper Limited ACN 125 248 286.

relevant employee means a person who, immediately before the transfer day, was—

- (a) an employee of the department; and
- (b) included, for this part, in a list of employees—
 - (i) signed by the Minister; and
 - (ii) available, in the head office of the department, for inspection by employees to whom the list relates.

transfer day means the later of the following—

- (a) 1 July 2009;
- (b) the day this section commences.

‘31D Transfer of relevant employees

‘(1) On the transfer day—

- (a) all relevant employees are transferred to become employees of QSL; and
- (b) the records of the department, to the extent they relate to the employment of relevant employees, become the records of QSL.

‘(2) The transfer does not—

- (a) affect a relevant employee’s benefits, entitlements or remuneration; or
- (b) prejudice the relevant employee’s existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
- (c) interrupt the relevant employee’s continuity of service; or

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- (d) constitute, for the relevant employee, a termination of the employee's employment by the department, a retrenchment or a redundancy; or
 - (e) entitle the relevant employee to a payment or other benefit merely because the employee is no longer employed in the department.
- '(3) If a relevant employee is employed on contract, the transfer has effect despite anything in the contract.
- '(4) On becoming an employee of QSL, a relevant employee stops being a public service employee.

'31E Right to return to public service

- '(1) A relevant employee transferred under section 31D may, within 1 year after the transfer day, elect to return to being a public service employee.
- '(2) Subsection (1) does not apply to—
- (a) a relevant employee mentioned in section 31D(3); or
 - (b) a relevant employee who, by written notice given to the chief executive officer of QSL, has waived the employee's right under subsection (1).
- '(3) If a relevant employee is appointed to a position in QSL at a higher level from the position to which the employee was transferred, the appointment may include a condition that the employee waive the employee's right under subsection (1).
- '(4) An election under subsection (1) must be made by giving written notice (an *election notice*) to the chief executive officer of QSL.
- '(5) At least 7 days but not more than 21 days after receiving an election notice, the chief executive officer must give a copy of the notice to the chief executive of the department.
- '(6) A relevant employee may withdraw an election notice by giving written notice (a *withdrawal notice*) to the chief executive officer of QSL.

[s 7]

- ‘(7) The withdrawal notice has effect only if it is given to the chief executive officer before the chief executive officer has given a copy of the election notice to the chief executive of the department.
- ‘(8) A relevant employee who has given a withdrawal notice under subsection (6) may not give a further election notice under subsection (1).

‘31F Conditions on return to public service

- ‘(1) This section applies to a relevant employee who, under section 31E, elects to return to being a public service employee.
- ‘(2) On the relevant employee’s return—
 - (a) the employee is taken not to have stopped being a public service employee when the employee was transferred; and
 - (b) the employee’s service as a public service employee is taken to have continued while the employee was employed by QSL; and
 - (c) the records held by QSL that relate to the employee’s employment become the records of the department.
- ‘(3) Subsection (2) does not allow the relevant employee to claim a benefit of the employee’s service more than once for the same period of time.’.

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